

FEDERAL COMMUNICATIONS COMMISSION
FEE PROCESSING FORM

DO NOT FILE COPY ORIGINAL PR 93-35
FCC/MELLON JAN 31 1994
02-01-94 8300364 001

Please read instructions on back of this form before completing it. Section I MU concurrent actions which require you to list more than one Fee Type Code, you must must accompany all payments. Only one Fee Processing Form may be submitted per application or legibly. All required blocks must be completed or application/filing will be returned without action.

SECTION I

APPLICANT NAME (Last, first, middle initial)

ABC Cellular Corp.

MAILING ADDRESS (Line 1) (Maximum 35 characters - refer to Instruction (2) on reverse of form)

16500 N.W. 52nd Ave

MAILING ADDRESS (Line 2) (if required) (Maximum 35 characters)

CITY

Miami

STATE OR COUNTRY (if foreign address)

FL

ZIP CODE

33014

CALL SIGN

WPBG-284

OTHER FCC IDENTIFIER

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

(A)	(B)	(C)	
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(1) P D W		\$ 105.00	

SECTION II — To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)	(B)	(C)	
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(2)		\$	
(3)		\$	
(4)		\$	
(5)		\$	

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE. →

TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING	FOR FCC USE ONLY
\$ 105.00	105.00

INSTRUCTIONS FOR COMPLETING FEE PROCESSING FORM, FCC FORM 155, August 1991

- (1) **"Applicant Name"** - Enter the name (last, first, middle initial) of the applicant as it appears on the original application or filing being submitted with this Fee Processing Form. If company, enter name which is used commercially.
- (2) **"Mailing Address (Line 1)"** - Enter the street address or post office box number to which the applicant wishes correspondence sent.
- (3) **"Mailing Address (Line 2)"** - This line may be used for further identification of the address if additional space is required.
- (4) **"City"** - Enter the name of the city associated with the given street address.
- (5) **"State or Country"** - Enter the appropriate two-digit state abbreviation as prescribed by the U.S. Postal Service. If address is foreign, enter the appropriate country name here.
- (6) **"ZIP Code"** - Enter the appropriate five or nine-digit ZIP Code prescribed by the U.S. Postal Service.
- (7) **"Call Sign or Other FCC Identifier"** - Enter the applicable call or unique FCC identifier, if any, as shown on your attached application or filing. If applying for a service affecting more than one call sign, enter one call sign only.
- (8) **Column (A), "Fee Type Code"** - Enter correct Fee Type Code(s) from the appropriate Fee Filing Guide. Only one Fee Processing Form may be submitted per application or filing. Inaccurate or erroneous Fee Type Codes may result in your application or filing being returned to you without further processing.
- (9) **Column (B), "Fee Multiple"** - Certain applications and filings may request action with respect to more than one station, license, frequency, or party and can be submitted together with one check if they meet specific conditions. This column is used only if a multiple, i.e., two or more, is being applied for. Examples of when this would be used are renewing more than one call sign, frequency, station, or the transfer of control of more than one station. Refer to the appropriate Fee Filing Guide for additional information.
- (10) **Column (C), "Fee Due for Fee Type Code in Column (A)"** - Enter in this block the amount of the fee associated with the Fee Type Code shown in Column (A) (times (X) the fee multiple, if required).
- (11) **"Total Amount Remitted With This Application or Filing"** - Enter the total of lines (1) through (5) of Column (C). This amount should equal the amount of your check or money order. We will not accept multiple checks.

HOW TO SUBMIT APPLICATIONS AND FILINGS

- o Each application or filing should be assembled with the Fee Processing Form, FCC Form 155, stapled to the top of the application with the check placed on top of the Fee Processing Form. **DO NOT STAPLE THE CHECK TO THE APPLICATION OR FEE PROCESSING FORM, FCC FORM 155.** Required copies of applications should be clearly identified as "duplicate copy" and placed behind the original package. **"Stamp and receipt" copies should be placed on top of the original package and CLEARLY identified as return copies.** Extraneous material and extra copies should be avoided at all times. Failure to follow these instructions will delay the processing of your submission.
- o Completed applications or filings should be mailed to the proper address shown in the Fee Filing Guide for the particular service for which you are applying or making a filing. **All applications and filings must be properly addressed to the appropriate P.O. box number,** even if hand delivered to the address listed below. Applications received before midnight on a normal business day will receive that day's date as the receipt date. Deliveries made after midnight on Fridays will not be "officially" receipted until the next Monday. Applications received on weekends and government holidays are dated the next regular business day.
- o A single check, bank draft or money order made payable to the Federal Communications Commission and denominated in U.S. dollars and drawn upon a U.S. financial institution must be included with each application or filing requiring a fee. No postdated, altered or third-party checks will be accepted. Do not send cash.
- o Parties hand delivering applications or filings may receive dated receipt copies by presenting copies of the applications or filings to the acceptance clerk at the time of delivery. **Receipts will be provided for mail-in applications or filings if an extra copy of the application or filing is provided along with a self-addressed stamped envelope. Only one piece of paper per application or filing will be stamped for receipt purposes.**

REMEMBER

- o A separate completed Fee Processing Form is required with each application or filing except in certain circumstances. Please refer to the appropriate Fee Filing Guide for additional information.
- o A wrong Fee Type Code or incorrect remittance may result in your application or filing being returned without processing, or result in the dismissal of your application or filing. Please ensure that FEE TYPE CODES are correct and that your check or money order equals the amount shown in the TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING block before submitting your application or filing.
- o If you have any questions completing this form, please call the Fees Hotline, 202/632-FEES.

FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 1, Subpart G of the Commission's rules authorize the FCC to request the information on this form. The information requested is required in order to obtain a license or authorization from the Commission. The purpose of the information is to provide a means to link a fee payment to a specific invoice, application or filing. The information will be used by the Commission to maintain data concerning fees paid to the Commission, for internal financial control, audit, and reporting purposes. Information requested on this form will be available to the public. Your response is required to obtain a license or other authorization from the Commission.

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0440), Washington, DC 20503.

THIS ADDRESS IS FOR HAND CARRY OR COURIER DELIVERY ONLY:

Federal Communications Commission
c/o Mellon Bank
Three Mellon Bank Center
525 William Penn Way
27th Floor, Room 153-2713
Pittsburgh, Pennsylvania 15259-0001
(Attention: Wholesale Lockbox Shift Supervisor)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:

REQUEST OF ABC CELLULAR CORP.)
FOR A WAIVER OF SECTION 90.495)
PRIVATE CARRIER PAGING SYSTEM)
CALL SIGN WPBG-284)

93-35

To: Chief, Private Radio Bureau

REQUEST FOR WAIVER

ABC Cellular Corp. ("ABC"), licensee of call sign WPBG-284, through counsel and pursuant to Section 90.151 of the Commission's Rules, hereby respectfully requests a waiver of Section 90.495 of the Commission's Rules to permit the filing of a request for local exclusivity on 929.4625 MHz in the South Florida market and as grounds therefore states as follows:

I. Background

ABC is a telecommunications company comprised of sixty-five employees and has been in business for seventeen years in the South Florida region. ABC currently has two offices located in Miami, one in Fort Lauderdale and another in Coral Gables. ABC is amongst the leaders in Florida in the sale of office telephone communications systems. ABC is also extensively involved in the sale of cellular phones throughout the South Florida region and provides discount long-distance service. Further, ABC is the exclusive representative of Cost Co., a wholesale bulk products

provider, with respect to the renting of floor space for the sale of cellular phones.

II. ABC Celllar Corp.'s Private Carrier Paging Authorization

On February 1, 1993, the Commission granted an authorization to ABC under call sign WPBG-284 to operate a six site private carrier paging system on 929.4625 MHz in South Florida. ABC subsequently was coordinated by the applicable coordinator for private carrier paging channels at 929 MHz, NABER, regarding a modification of ABC's original authorization to relocate certain sites. As reflected on the FCC Form 800-A attached as Exhibit 1, ABC timely constructed six sites in the South Florida region pursuant to a grant of conditional authority upon coordination.

ABC's modification application is currently pending under FCC File No. 633448. The constructed system consists of six transmitter sites located from Fort Pierce, Florida to Goulds, Florida.

III. The Commission's PCP Exclusivity Report and Order

In the Commission's Report and Order in PR Docket 93-35, which was released November 17, 1993, the Commission provided for exclusivity to qualified private carrier paging systems at 929-930 MHz. Commission Rule Section 90.495(a)(1) states that a "local system must consist of at least six contiguous transmitters, except in the New York, Los Angeles, and Chigago markets, as defined in Section 90.741 of our rules, where 18 contiguous transmitters are

required. For purposes of this section, transmitters will be considered contiguous if:

- (i) each transmitter is located within 25 miles (40 kilometers) of at least one other transmitter in the system;
- (ii) the combined areas defined by a 12.5 mile radius around each transmitter form a single contiguous area; and
- (iii) no transmitter is co-located with any other transmitter being counted as part of a local system for purposes of this section."

IV. ABC Cellular Corp.'s Waiver Request

ABC requests a waiver of Section 90.495(a)(1) in that four of ABC's six currently constructed transmitter sites are located within 25 miles of another site in the local system. The Belle Glade, Florida site is located 43.11 miles from another transmitter in the system and the Fort Pierce, Florida is located 52.24 miles from the current Belle Glade, Florida transmitter site. A waiver is requested to permit the filing of a request for an authorized exclusive local system operating on 929.4625 MHz. Such a waiver is appropriate in this instance due to the unusual terrain characteristics in the South Florida region. Specifically, a significant portion of the northern coverage area of ABC's proposed system is not suitable for the existence of transmitters and consists of swamp-like terrain and crop land with no electricity. The applicable area is used primarily for the growing of corn or consists of extensive orange groves. Further, a substantial

portion of ABC's coverage area to the northwest of the existing system, if the 25 mile transmitter separation was required, would be situated near a large water reservoir. Attached hereto as exhibit 2 is a map of the applicable region which illustrates ABC's difficulty in providing service in the Northwest region of its proposed system due to the terrain in the surrounding areas.

Further, a strict adherence to the 25 mile separation requirement does not advance the Commission's purposes of providing the most efficient use of the 929-930 MHz spectrum. This is particularly the case in flat, non-mountainous areas like South Florida, where 25 mile transmitter site separations will result in significant signal overlap which reduces system coverage areas and spectrum efficiency. It is clear from both the Notice of Proposed Rule Making ("NPRM") and the Report and Order ("R & O") in this proceeding that the Commission intended to discourage speculation by requiring an applicant to be authorized for a minimum number of contiguous transmitters. As set forth on page 3 of the NPRM, the Commission stated that "[a] six transmitter minimum **should** ensure adequate coverage in **most markets**, and the required capital investment is likely to discourage frivolous applications." (emphasis added). ABC submits that the six contiguous transmitter minimum, as defined in the Report and Order, does not ensure adequate coverage in the South Florida market, given the particular terrain difficulties. However, ABC's proposed system consisting of the six transmitter minimum will provide adequate and necessary coverage in the South Florida area. Further, ABC submits that its

existing system is in no way a frivolous application, as the six site system has been fully constructed in accordance with Commission Rules and Regulations.

Further, ABC currently has pending at NABER an application for six additional fill-in sites from Fort Lauderdale, Florida to Stuart, Florida, which will result in a local system consisting of at least eleven (11) contiguous sites, more than the requisite six site minimum set forth in Rule Section 90.495. The referenced application was not filed at the Commission on or before October 14, 1993, as required in Commission Rule 90.494(e), however, the application was on file at NABER prior to the release date of the Commission's Report and Order in PR Docket 93-35, which was November 17, 1993.

Further, ABC's application for six additional sites would have been coordinated prior to the Commission's release of the Report and Order in the exclusivity proceeding had the Commission not imposed the October 14, 1993 filing date on applications without providing prior notice to applicants. The imposition of the October 14, 1993 date resulted in NABER freezing the processing of private carrier paging applications and, as a result of the lack of notice to applicants, prejudiced ABC's ability to fully comply with the language of the Commission's Report and Order.

ABC respectfully requests a waiver of Commission Rule Section 90.494(e) to permit ABC to apply the six additional fill-in transmitter sites set forth on the application pending at NABER

under Reference No. 933080002 toward its transmitter total in conjunction with its request for local exclusivity on 929.4625 MHz.

ACCORDINGLY, for the reasons set forth herein, ABC respectfully requests that the Commission grant a waiver of Commission Rule 90.495 so as to permit the filing on behalf of ABC Cellular Corp. of a request for local exclusivity on 929.4625 MHz in South Florida.

Respectfully submitted,
ABC CELLULAR CORP.

By: 

Lloyd W. Coward
Its Attorney
Meyer, Faller Weisman &
Rosenberg, P.C.
4400 Jenifer Street, N.W.
Suite 380
Washington, D.C. 20015
202-362-1100

Date: January 28, 1994

FEDERAL COMMUNICATIONS COMMISSION

EXHIBIT 1

Address all correspondence to:
Federal Communications Commission
1270 Fairfield Road
Gettysburg PA 17325-7245

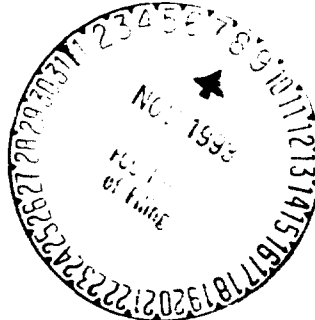
STAMP & RETURN
COPY

Approved by OMB
3060-0444
Expires 3/31/96
See reverse for
public burden estimate

FAX Number: (717) 337-1541

10/02/93

ABC CELLULAR CORPORATION
PAUL KLUGERMAN
16500 NW 52ND AVE
MIAMI, FL 33014



Dear Licensee:

On 02/01/93 you were granted a new license or additional channels for station WPBG284 (GS) PRIVATE CARRIER PAGING. The Commission's Rules require trunked systems to be constructed and placed in operation within 1 year, a conventional system (including 900 MHz paging) and 220-222 MHz non-nationwide systems within 8 months, and slow growth systems within 3 years. Please supply the following information regarding your station and sign and return this form to us within 30 days of the date of this letter at the above address or FAX number.

We are asking for this information pursuant to the Communications Act of 1934, as amended, 47 U.S.C. Section 308(b), and the Commission's Rules, 47 C.F.R. Sections 90.631, 90.633, 90.494, 90.629, 90.725 and 90.727, to determine whether you are entitled to keep your license. If you do not respond, we will cancel your license. If you have any questions, please contact the Consumer Assistance Branch staff at (717) 337-1212.

1. Check here ☐ if station is not in operation, sign, date, and return this form as noted above. We will cancel your license.
2. Number of mobiles _____, portables _____, pagers 4, control stations _____ in operation by construction deadline.
3. Date you started using new or additional channels 9-28, 1993.
(Month and Day)
4. List all frequencies now in operation 929.4625.
5. Coordinates _____ Latitude _____ Longitude.
+ See attached *

I certify under penalty of perjury that the foregoing is correct.

SIGNATURE: Paul Klugerman DATE: 10/13/93

Kathryn M. Garland
Chief, Consumer Assistance Branch
Licensing Division

WPBC-284 Constructed Sites

1. N26-41-50/W080-33-13
2. N25-46-20/W080-11-20
3. N25-33-48/W080-26-27
4. N27-26-05/W080-21-42
5. N25-57-13/W080-07-51
6. N26-13-51/W080-05-26

These sites were constructed per ABC Cellular Corp.'s modification application, which was coordinated by NABER under Reference No. 932380001 and is currently pending under FCC File No. 633448.

